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In re Application of
Verra et al.
Application No. 10/560,146
PCT No.: PCT/FR04/01446
Int. Filing Date: 10 June 2004
Priority Date: 12 June 2003
Atty. Docket No.: 377/9-2182
For: Bone Marrow Aspiration Trocar

COMMUNICATION

This is in response to the declaration of the inventors filed on 09 December 2005.

BACKGROUND

This international application was filed on 10 June 2004, claimed an earliest priority date of 12 June 2003, and designated the U.S. The International Bureau communicated a copy of the published international application to the USPTO on 23 December 2004. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 December 2005. Applicants filed, *inter alia*, the basic national fee on 09 December 2005.

DISCUSSION

Review of the declaration of the inventors filed on 09 December 2005 reveals that it names two inventors, Hacene ZERAZHI and Borhane SLAMA, who are also named in the published international application. Further inspection of the published international application reveals that it refers to another inventor (Yvan Verre), not nominated by the declaration, as "l'inventeur décédé." Counsel is required to remedy this discrepancy. In the event that Mr. Verre was not properly named as an inventor, counsel may wish to proceed under 37 CFR 1.497(d). Alternatively, 37 CFR 1.42 provides in part that

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

Meanwhile, 37 CFR 1.497(b)(2), as amended effective 08 September 2000, provides that

If the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

In the event that counsel elects to proceed under 37 CFR 1.42, care should be taken to ensure that the declaration provides citizenship, residence and postal address information for both the legal representative(s) and for the deceased inventor.

CONCLUSION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the PCT Legal Office.



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